

REMARKS

Claims 1-11 and 13 remain pending in the application. Independent claim 1 has been amended herein to correct a minor informality. Favorable reconsideration of the application is respectfully requested in view of the amendment and following remarks.

I. CLAIM OBJECTIONS

The Examiner objects to claims 1-4 as containing the following informality: the Examiner states the preamble to claim 1 should include a positive recitation of the hole and panel instead of the "for producing" language. In accordance with the Examiner's comments, claim 1 has been amended to recite in part: "A fixing device ~~for producing an anchoring~~ anchored in an undercut drilled hole drilled only partially into an undercut portion of a panel, the fixing device comprising . . .". The objections, therefore should be withdrawn. In addition, because the claim amendment is being submitted merely to correct an informality, Applicants submit the amendment should be entered even though being made in response to a Final Office Action.

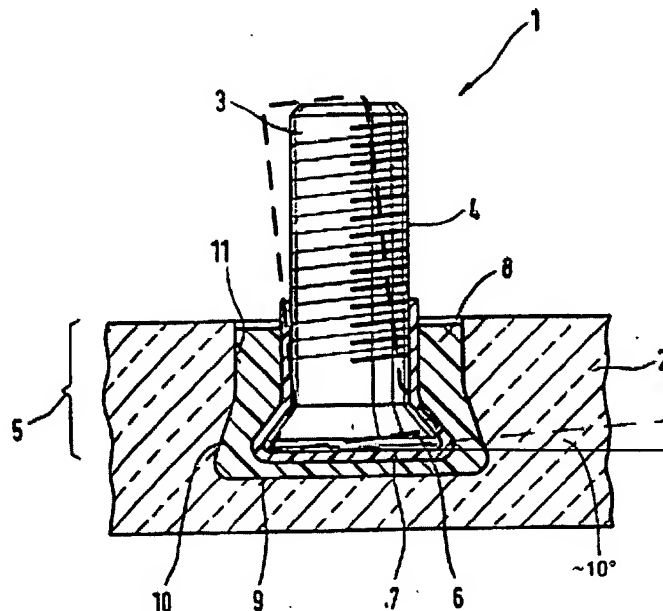
II. REJECTION OF CLAIMS UNDER 35 USC §§ 102(b) and 103(a)

All claims now stand rejected pursuant to 35 U.S.C. § 103(a) as being obvious over Oberhofer et al., U.S. Patent No. 6,735,921 (Oberhofer) in view of Mallon, U.S. Patent No. 846,493 (Mallon), both of which have been applied in previous Office Actions. Applicants traverse the rejections for at least the following reasons.

A. The Claimed Dimensional Features Are Lacking In the References

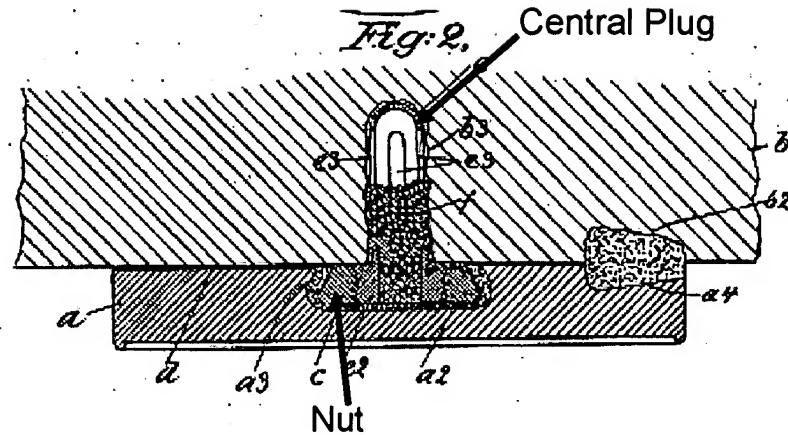
In response to the previous Office Action, Applicants amended independent claims 1 and 5 to recite that "an outermost cross-sectional dimension of the resilient material is less than an innermost cross-sectional dimension of the undercut hole." These features are apparent in the figure, as described in the application at page 2, line 30 to page 3, line 19. The references, whether considered individually or in combination, do not disclose or suggest any structure having the dimensional features recited in independent claims 1 and 5.

The sole figure in the application is reproduced below for convenience. Specifically, in the figure below it can be seen that the outermost cross-sectional dimension of the resilient material 7 is less than the innermost cross-sectional dimension of the undercut hole 9. This permits the fixing device to be placed within the undercut hole from the front of the panel such that during fabrication, the curable compound 8 may be displaced and distributed around the fixing device. (See Application at page 3, lines 13-15.)



Current Application

The Examiner recognizes the device of Oberhofer lacks these features, and therefore no longer asserts an anticipation rejection pursuant to 35 U.S.C. § 102(b) based on Oberhofer. The Examiner, however, states the claimed dimensional features are disclosed by Mallon and concludes that it would have been obvious to modify the device of Oberhofer based on Mallon to arrive at the claimed invention. Applicants disagree with the Examiner's analysis of Mallon. Fig. 2 of Mallon is reproduced below for convenience.



Mallon

The Examiner states that Mallon discloses an anchor bolt surrounded by a covering material "C" that has an outermost cross-section that is less than an innermost cross-section of the undercut hole. (See Fig. 2.) The Examiner, therefore, equates the covering material "C" to the claimed resilient material. The Examiner's interpretation of Mallon is incorrect insofar as the "covering material C" is actually a "nut C" that forms part of the anchor bolt structure.

More specifically, in the device of Mallon, the purported anchor bolt includes **central key plug "e"** for protruding into a support structure, and a threaded **nut "C"** which widens in the direction of insertion in the undercut hole. (See Mallon at page, lines 60-62 and 78-85; Fig. 2.) Referring to claim 1, for example, the claimed invention includes an **anchor bolt** comprising a "**fixing means**" for fixing the panel to a support structure, and an "**anchoring zone**" which widens in the direction of insertion in the undercut hole. In both structure and function the claimed "fixing means" is analogous to the central key plug "e" of Mallon, and the claimed "anchoring zone" is analogous to the nut "C" of Mallon.

Accordingly, it is improper for the Examiner to interpret the nut "C" as a "covering material" analogous to the claimed resilient material. Indeed, viewing the nut "C" as

comparable to the claimed anchoring zone, Mallon does not disclose or suggest any additional structure comparable to the resilient material having the claimed dimensional limitations.

The Examiner may view the nut "C" as a covering material because the central key plug "e" and nut "C" appear to be distinct structures that must be threaded together. In contrast, the claimed anchoring zone and fixing means are described in the current application as forming a unitary piece (the anchor bolt). This difference does not justify the interpretation afforded the nut "C" by the Examiner, given its structure and function being analogous to the claimed anchoring zone.

Furthermore, even if the nut "C" of Mallon were interpreted as being analogous to the claimed resilient material, Mallon still would be deficient. In such case, the device of Mallon would lack a structure analogous to the claimed anchoring zone. Generally, the claimed invention is a three-component structure (fixing means, anchoring zone, resilient material) further having the claimed dimensional features. Under any reasonable interpretation, the device of Mallon is a two-component structure, meaning at least one claimed component and its respective dimensional features are lacking.

For at least these reasons, Mallon does not disclose or suggest a structure having the dimensional features recited in independent claims 1 and 5. A combination of Oberhofer and Mallon, therefore, does not result in, disclose, or suggest the invention of claims 1 and 5 and the claims dependent thereon.

B. The Combination of the Curable Compound and Resilient Material Is Lacking In the References

Claims 10 and 13 recite that the fixing device is anchored in the undercut portion by a curable compound. At the outset, claim 10 depends from claim 5, and therefore also is patentable for at least the above reasons. The rejection of claim 10, therefore, should be withdrawn.

In addition, Applicants again assert the features pertaining to the curable compound are patentable independent of the dimensional features analyzed above. The Examiner states that one skilled in the art would have considered both Oberhofer

and Mallon in determining how to mount a stud to a panel. Even if true, the references do not teach employing the combination of a resilient material as used in the device of Oberhofer, together with a hard material as disclosed in Mallon. Indeed, the two references teach away from each other. Mallon discloses providing a hard compound surrounding the anchoring bolt to provide a secured fixation. Oberhofer discloses providing a resilient material surrounding the anchoring bolt to provide flexibility to permit some movement of the panel.

In this vein, a combination of Mallon and Oberhofer does not result in, disclose, or suggest the claimed invention. Oberhofer discloses providing a resilient material around the anchoring zone of the bolt. Mallon discloses providing a hard cured material around the anchoring zone of the bolt. There is no disclosure or suggestion in the references, whether view individually or in combination, to provide a configuration by which a resilient material is provided around the anchoring zone of the bolt, and a curable material is provided around the resilient material.

Applicants add that in the device of Mallon, the curable compound prevents the anchor bolt from pulling out of the panel. In the device of Oberhofer, additional bolt or plate structures provide that function. One skilled in the art, therefore, would not employ a curable compound in the device of Oberhofer, insofar as the device of Oberhofer already has structures to perform the same function.

Accordingly, claims 10 and 13 are not obvious over Oberhofer in view of Mallon, and the rejection of these claims should be withdrawn.

III. CONCLUSION

Accordingly, claims 1-11 and 13 are believed to be allowable and the application is believed to be in condition for allowance. A prompt action to such end is earnestly solicited.

Should the Examiner consider that a telephone interview would be helpful to facilitate favorable prosecution of the above-identified application, the Examiner is invited to contact the undersigned at the telephone number provided below.

Application No.: 10/560,456

Should a petition for an extension of time be necessary for the timely reply to the outstanding Office Action (or if such a petition has been made and an additional extension is necessary), petition is hereby made and the Commissioner is authorized to charge any fees (including additional claim fees) to Deposit Account No. 18-0988, reference number FISCP0101US.

Respectfully submitted,

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